



2012 Legislative Session

Maryland Human Trafficking Task Force Supported Bills

HB 607/SB 352: Posting of the National Human Trafficking Resource Center Hotline

Sponsors: Delegate Hucker (House); Senators Raskin and Forehand (Senate)

Results: Signed by the Governor

SB 352 requires privately-owned bus stations and truck stops to post a sign with the National Human Trafficking Resource Center Hotline information. If a business owner fails to post this sign within 24 hours of receiving a notice of failure to comply, a civil fine not to exceed \$1,000 may be assessed.

HB 860/SB 1082: Child Abuse—Human Trafficking

Sponsors: Delegate Stein (House); Senator Forehand (Senate)

Results: Signed by the Governor

This bill amends the definition of “sexual abuse” to specifically include human trafficking, child pornography, and prostitution of a child. This change in the Courts and Judicial Proceedings Code allows a domestic minor sex trafficking victim to be considered an abused child, and in turn could allow a victim to be considered a “Child in Need of Assistance” (CINA). A CINA may be taken into custody and may receive shelter care. A CINA may not be committed to a correctional facility or one used to confine delinquent children. Additionally, the amended definition will affect the Family Law Code which will now require the reporting and investigation of human trafficking, child pornography, and prostitution as specific forms of abuse.

HB 391/SB 902: Asset Forfeiture for Human Trafficking

Sponsors: Delegate Dumais (House); Senators Raskin, Brinkley, Forehand, Getty, King, Klausmeier, Madaleno, and Peters (Senate)

Results: Failed to Pass

HB 391 authorizes asset forfeiture of vehicles, books, records, money, weapons, or property used or intended to be used in violation of Md. Code Ann., Crim. Law § 11-303 (Human trafficking). The bill also establishes an Anti-Human Trafficking Fund to provide aid to victims, funding to law enforcement, and funding to nonprofit or private organizations that work on the issue of human trafficking. Fifty percent of the money in the Anti-Human Trafficking Fund must be given to nonprofit or private organizations that provide direct services to victims of human trafficking, programs for prevention of human trafficking, or education programs on human trafficking. Additional funds are distributed to law enforcement organizations that respond to and investigate human trafficking cases.

The primary reason traffickers exploit children is profit. Children are low cost products able to be sold multiple times for the enrichment and benefit of their trafficker. Asset forfeiture is a critical means of prohibiting a criminal from keeping the proceeds or instrumentalities of the crime and provides a means to pay for victim services and law enforcement investigation.

HB 1300: Criminal Injuries Compensation Board - Human Trafficking - Victims**Sponsor: Delegate Stein (House)****Results: Failed to Pass**

This bill amends the crime victim's compensation statutes to expressly define that a child victim of the crimes of human trafficking, abduction of a child under 16, sexual solicitation of a minor, sale of a minor, or child pornography is eligible for crime victim's compensation, even if the minor is also charged with prostitution. Currently, crime victim's compensation law requires a victim to report the crime to law enforcement within 48 hours, unless good cause exists. This bill clarifies that "good cause" exists where the claimant is a victim of human trafficking, abduction of a child under 16, sexual solicitation of a minor, sale of a minor, or child pornography and allows these victims to file a claim within 3 years of when the "claimant knew or should have known" they were a victim of the offense, the same time limit mandated for victims of child abuse.

Victims of human trafficking and domestic minor sex trafficking are commonly caused to commit crimes as a result of being trafficked. This cannot be allowed to prevent them from accessing crime victim's compensation, critically needed to fund the process of restoration. At the societal level, awarding compensation acknowledges that trafficking is a crime. At the individual level, compensation acknowledges a victim's pain and suffering. At the practical level, compensation can assist victims in rebuilding their lives.

HB 1293 Criminal Law - Child Kidnapping and Prostitution – Penalty**Sponsor: Delegate Dumais (House)****Results: Failed to Pass**

Md. Code Ann., Crim. Law § 11-305 (Abduction of child under 16) is currently a misdemeanor offense punishable by up to 10 years of imprisonment, a fine not to exceed \$5,000, or both. This bill raises the offense to a felony and raises the fine to \$10,000–\$15,000, an amount equal to the human trafficking fine.

An enumerated purpose of the crime of abduction is for prostitution—prostitution of a child is sex trafficking and therefore should be penalized at the same severity level as the offense of human trafficking. Human trafficking is currently a felony level offense in Maryland. Consistency in penalties ensures no trafficking offender will be punished less severely than another and will increase deterrence.

SB 993: Crimes – Human Trafficking of Minor - Defenses**Sponsors: Senators Raskin, Astle, Benson, Forehand, Jennings, King, Madaleno, Montgomery, Pinsky, Pugh, and Young (Senate)****Results: Failed to Pass**

This bill prevents a defendant from asserting a defense that the offender did not know the age of the minor victim. However, it is a defense that the person made "a reasonable bona fide attempt to ascertain the true age of the minor by requiring production of a driver's license, marriage license, birth certificate, or other governmental or educational identification card or paper and did not rely solely on the oral allegations or apparent age of the minor." The bill also prevents the defendant from asserting the defense that the minor consented to the commercial sex act.

Permitting a defense to prosecution based on mistake of age subverts the intention of protecting children from exploitation and creates a weakness in the laws needed to deter this crime and to protect our children. State laws prohibiting a defense based on mistake of age in sex trafficking and commercial sexual exploitation of children (CSEC) laws send a clear statement to offenders that this crime will not be tolerated.

A minor cannot consent to commercial sex acts, which are in and of themselves, criminal acts. For the same reason, age of consent laws also are irrelevant for commercial sex transactions. Permitting a defense to prosecution for human trafficking based on the child's consent incorrectly implies that a minor—or any person—could authorize criminal sex acts. Sex trafficking and commercial sexual exploitation laws that do not expressly prohibit a defense based on the child's consent to sex acts unfairly shifts the burden to the child to prove she or he did not in fact consent and may result in shielding offenders from prosecution and accountability. Moreover, permitting a defense that presumes a minor can consent to commercial sex acts further undermines the perception of prostituted children as victims, instead supporting a perception of these children as willingly delinquent youth